

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI**

RONALD TUSSEY, et al.,

Plaintiffs,

v.

ABB, INC., et al.,

Defendants.

CIVIL ACTION NO. 06-cv-04305-NKL

(Judge Nanette K. Laughrey)

**FIDELITY DEFENDANTS' NOTICE OF APPEAL TO
THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

Defendants Fidelity Management Trust Company and Fidelity Management & Research Company (hereinafter, "Fidelity Defendants") previously, on April 30, 2012, filed their notice of appeal, Docket Entry 633. At the time the notice of appeal was filed, Fed. R. Civ. P. 59(e) post-trial motions were pending (Docket Entries 629, 630, 631 and 632) and the Court had authorized the filing of motions for attorney's fees on or before May 11, 2012 (Docket Entry 626). On July 11, 2012, prior to the time any notice of appeal became effective, the District Court, pursuant to Fed. R. Civ. P. 58, extended the time to appeal, pending resolution of the motion for attorney's fees. Docket Entry 704. On November 2, 2012, the District Court Disposed of the motion for attorney's fees. Docket Entries 718 and 719. As of this filing, no other post-trial motions are pending.

Pursuant to Fed. R. App. P. 4 (a)(4), Fidelity Defendants give Notice of Appeal and hereby appeal to the United States District Court for the Eighth Circuit from the Judgments in a Civil Case, Docket Entry 624 entered on March 31, 2012 and Docket Entry 719 entered on November 2, 2012 and the Orders associated with these judgments, Docket Entry 623 entered on March 31, 2012 and Docket Entry 718 entered on November 2, 2012, together with all previous

rulings and orders that led up to and served as predicate for the judgments herein, including, but not limited to, the Memorandum and Order, Docket Entry 183, filed on December 3, 2007. Fidelity Defendants further request that this Notice of Appeal be consolidated with the Notice of Appeal filed by Fidelity Defendants in this case that was assigned Eighth Circuit Court of Appeals Docket No. 12-2060.

Respectfully submitted this 16th day of November, 2012.

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of November, 2012, I electronically submitted the foregoing Fidelity Defendants' Notice of Appeal to the United States Court of Appeals for the Eighth Circuit and Appellant's Form A with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to:

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